MULTIMEDIA UNIVERSITY

STUDENT ID NUMBER

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2018/2019

UIB2612 - ISLAMIC BANKING & FINANCE LAW

(All Sections/ Groups)

27th MAY 2019
Reading Time: 2.30 pm – 2.45 pm
(15 Minutes)
Answering Time: 2.45 pm – 5.45 pm
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. Attempt **FOUR (4) OUT OF FIVE (5)** questions. **QUESTIONS IN PART A ARE COMPULSORY.** The distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copy of:
   i. Islamic Financial Services Act 2013; and
   ii. Central Banks of Malaysia Act 2009.

   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

PART A (COMPULSORY QUESTIONS)

QUESTION 1

"The Shariah Advisory Council of Bank Negara Malaysia is responsible to advise on matters in relation to Islamic Banking and Takaful businesses or any other Islamic finance area that is supervised and regulated by Bank Negara Malaysia."

(Mohd Yazid Zul Kepli (2015) *Introduction to Islamic Finance*, CLJ Publication 2015)

a) In light of the above statement, discuss in detail the role of Shariah Advisory Council as provided in the Central Bank Act 2009 and the requirements for reference to this council for ruling from court in Islamic Banking cases. Cite the relevant cases as well as other authorities where appropriate.

(20 marks)

b) The Islamic Financial Services Act 2013 provides the criteria and standard of requirement in relation to the appointment of Shariah Advisory Committee at the Islamic Banks level. Explain by referring to the relevant sections.

(5 marks)

(Total: 25 Marks)

QUESTION 2

"The adjudication of Islamic banking and finance (IBF) laws in Malaysia is unique given the Malaysian parallel legal systems. Although IBF is a branch of Islamic law, the civil court has the appropriate jurisdiction to decide the cases. This is due to the fact that banking falls under the items 7 and 8 of the Federal List of the Federal Constitution."

(Markom, R., Pitcha & Ors (2013). *Adjudication of Islamic banking and finance cases in the civil courts of Malaysia.* European Journal of Law and Economics, 36*(1), 1-34)*

With reference to relevant provisions and case laws, discuss the jurisdiction of Islamic Banking cases in Malaysia.

(Total: 25 Marks)

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QUESTION 3

In legal definition, by virtue of Section 2 of Islamic Financial Services Act 2013, it is expressly stated that *Takaful* is an arrangement based on mutual assistance under which the participants agree to contribute to a common fund providing for mutual financial benefits payable to the *Takaful* participants or their beneficiaries on the occurrence of pre agreed events. *Takaful* is not a strange concept as it is always practiced by Muslims for years.

(a) Explain the following concepts of *Takaful*:

i.	*Tabarru';*	(4 marks)
ii.	*Taawwun;*	(4 marks)
iii.	*Al Mudharabah*	(4 marks)

(b) In light of Quranic verses and hadith, discuss the permissibility of Takaful in Islam and its features which makes it different from conventional insurance.

(13 marks)

(Total: 25 marks)

PART B (ANSWER ANY OF ONE (1) OF THE TWO (2) QUESTIONS)

QUESTION 4A

"It is a particular type of sale, compatible with Shariah. It is one of three types of fiduciary sale (*bay-al-amanah*). The seller expressly mentions the cost he has incurred on the commodities for sale, then sells it to another person by adding some profit or mark-up thereon which is known to the buyer. This type of sale includes an "honest declaration of cost." It is one of the most popular modes used by banks in Islamic countries as an alternative to loans with interests."

(Hanif, M. (2011). *Differences and similarities in Islamic and conventional banking,* International Journal of Business and Social Science, *Vol.2, N.2, pp. 166–175)*

Based on the above statement, identify the type of sale mentioned. Explain the definition of the identified sale, legality of the sale according to the Quran, Hadith and Ijmak, pillars and condition of the identified sale and its application in the modern world.

(Total: 25 Marks)

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QUESTION 4B

The introduction of Shariah compliant home financing products in Malaysia is a welcoming sight for Muslim and non-Muslim alike. For Muslims, choosing the Shariah compliant home financing products are obligatory while for non-Muslims, Islamic home financing products allow them to compare the products with conventional ones to suit their financial capabilities. Normally, the Islamic home financing in Malaysia is based on the contract of *Musharakah Mutanaqisah* Partnership (MMP) and *al-Bay' Bithaman Ajil* (BBA).

Based on the above statement, compare the contract of *Musharakah Mutanaqisah* Partnership (MMP) and *al-Bay' Bithaman Ajil* (BBA) based on the definition, legality evidenced by the Quran, Hadith and Ijmak, pillars and flow of the contract and its application in the banking industry.

(Total: 25 Marks)

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